

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

LYNDON WILLIAMS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-12-77-RAW
)	
STATE FARM MUTUAL)	
AUTOMOBILE INS. CO., et al.,)	
)	
Defendants.)	

ORDER

Before the court is the motion of defendant State Farm Mutual Automobile Insurance Company to dismiss for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) F.R.Cv.P. Plaintiff seeks to recover from defendants under an insurance policy. The complaint alleges that he suffered an injury in Pontotoc County, Oklahoma (making venue appropriate in this court). Federal jurisdiction is alleged based upon diversity of citizenship pursuant to 28 U.S.C. §1332. Plaintiff, however, merely alleges that he is “a resident of Faulkner County, State of Arkansas.” (Complaint at ¶1)(emphasis added).

Movant seeks dismissal based upon the argument that this allegation is insufficient to establish jurisdiction. This argument appears correct. “[S]tate citizenship for purposes of diversity jurisdiction depends not on residence, but on national citizenship and domicile, and the existence of such citizenship cannot be inferred from allegations of mere residence, standing alone.” *Axel Johnson, Inc. v. Carroll Carolina Oil Co.*, 145 F.3d 660, 663 (4th Cir.1998). *See also* 13E Charles Alan Wright, Arthur R. Miller & Edward H. Cooper,

Federal Practice and Procedure, §3611 (3d ed. 2009) at 492 (“an allegation of a party’s residence alone is not sufficient, since . . . that is not equivalent to domicile or citizenship for subject matter jurisdiction purposes”).

In his response, plaintiff states that if the court is inclined to grant the motion, plaintiff requests leave to file an amended complaint. This will be permitted.

It is the order of the court that plaintiff shall file an amended complaint, alleging more specifically plaintiff’s residence and citizenship, on or before May 16, 2012. The motion to dismiss (#20) is deemed moot.

ORDERED THIS 8th DAY OF MAY, 2012.

Dated this 8th day of May, 2012.

A handwritten signature in cursive script, reading "Ronald A. White", written over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma